

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1, 3-9 and 40 are currently pending in the application. Claims 1, 3-7 and 9 are amended; Claim 40 is added, and Claims 2 and 10-39 are canceled without prejudice or disclaimer by the present amendment. Support for the new and amended claims can be found in the original specification, claims and drawings.¹ No new matter is presented.

In the Office Action, Claims 1-9 were rejected under 35 U.S.C. § 102(e) as anticipated by Okamoto et al. (U.S. Pat. 7,310,823, herein “Okamoto”).

In response to the above-noted rejection, Applicant respectfully submits that amended independent Claims 1 and 9 and new independent Claim 40 recites novel features clearly not taught or rendered obvious by Okamoto.

Amended independent Claim 1 recites a recording system in which a host device and a recording drive are connected via a bus,

...said recording drive comprising
recording means for recording user data and user
control data in a unit of physical cluster on a recording
medium,
wherein the content is recorded in the user data, and
protection information ***is recorded in the user control data***, the
protection information indicating whether the content is to be
protected when being transmitted on the bus based on a
determination result obtained by said determination means.

Independent Claims 9 and 40, while directed to alternative embodiments, recite similar features. Accordingly, the remarks and arguments presented below are applicable to each of independent Claims 1, 9 and 40.

Turning to the applied reference, Okamoto describes a digital information recording apparatus that includes multiple recording circuits for making multiple copies. The apparatus

¹ Support for amended independent Claims 1 and 9 can be found at least at Fig. 5 and pp. 27-29 of the originally filed specification. New Claim 40 recites features substantially similar to amended Claim 1 but is drafted to avoid interpretation under 35 U.S.C. § 112, sixth paragraph.

limits the number of copies in accordance with copy information provided within the digital information itself. When the number of copies is reached, if additional copies are to be made, then the source copy is disabled when a new copy is made.²

Okamoto, however, fails to teach or suggest that user data and user control data are recorded in a unit of physical cluster on a recording medium and that “***protection information is recorded in the user control data,***” as recited in amended independent Claim 1.

In rejecting features previously recited in Claims 1 and 9 directed to recording the protection information on the recording medium, the Office Action relies on col. 8, ll. 10-26 of Okamoto. This cited portion of Okamoto describes that video/voice information output from storage 4102 is encrypted as needed in an encryption circuit 4103 according to a control signal received from the recording control circuit 4109. Further, as described at col. 7, l. 67-col. 8, l. 9 of Okamoto, the control information is added to the broadcast video/voice digital information. This control information is supplied to and detected by a control detector circuit 4108, and the recording control circuit 4109 determines whether to record the signal, as well as whether to encrypt the signal at the time of recording according to this control information.

Thus, Okamoto merely describes that control information associated with the video/voice digital information is detected by the detector circuit 4108 and used by the recording control circuit 4109 to determine whether the received broadcast data may be recorded, and the terms of such recording. Okamoto, however, fails to teach or suggest recording user data and user control data in a unit of physical cluster on the recording medium, and that “***protection information is recorded in the user control data,***” as recited in amended independent Claim 1. More specifically, Okamoto, fails to teach or suggest that the protection information is recorded on the recording medium whatsoever.

² Okamoto, Abstract.

Accordingly, Applicant respectfully requests that the rejection of Claim 1 (and the claims that depend therefrom) under 35 U.S.C. § 102 be withdrawn. For substantially similar reasons, it is also submitted that independent Claims 9 and 40 patentably define over Okamoto.

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the invention defined by Claims 1, 3-9 and 40 is patentably distinguishing over the applied references. The present application is therefore believed to be in condition for formal allowance and an early and favorable reconsideration of the application is therefore requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Andrew T. Harry
Registration No. 56,959

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)

I:\ATTY\ATH\PROSECUTION25's\255147US\255147US-AM-DUE-3-28-08.DOC